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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 4 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (item 4 of the provisional agenda) (continued) (E/CN.4/1994/9, 12-14, 96 and 98; A/48/96, 278 and 557)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (item 9 of the provisional agenda) (continued) (E/CN.4/1994/22 and 23; A/48/385)

1. Mr. AKHUND (Pakistan) said that his delegation wished to associate itself with all those that had expressed their hopes for the success of the peace talks between Israel and the Palestine Liberation Organization (PLO). The historic Declaration of Principles on Interim Self-Government Arrangements was an important step forward but many obstacles still remained and a peaceful settlement could only be reached if the Palestinians were enabled to exercise their right to self-determination.

2. A just and honourable settlement would be a major factor in ensuring peace and stability in the Middle East. His delegation urged the Commission to remain actively engaged in the peace process until a comprehensive settlement had been reached. Acts of brutality against the Palestinian people must cease and all the Arab territories occupied in 1967 liberated for stability to return to that region of the world.

3. Mr. BENHIMA (Observer for Morocco) said that, despite the Bosnian tragedy and the ongoing threat of extermination of the Bosnian people, the international community had not yet found a way to ensure the sovereignty of that people or the unity and integrity of its territory. Morocco vigorously condemned the Serb aggression, which was aimed at dismembering the Republic of Bosnia and Herzegovina, a Member State of the United Nations. It had participated in the international effort to relieve the suffering of the Bosnian people, and it continued to support its legitimate rights.

4. The year 1993 had witnessed a number of promising events. It was gratifying that the process of constitutional reforms in South Africa was continuing despite the acts of provocation perpetrated by extremists on all sides. They must not be allowed to interfere with the democratic process and with South Africa's transition to a democratic, united and non-racial society. His Government welcomed the decision to install a Transitional Executive Council and hoped that the parties concerned would persevere on the path of dialogue and that the general elections would be held in April as scheduled.

5. In the Middle East, the mutual recognition of the PLO and Israel and the signature of the Declaration of Principles constituted a turning point in the history of the region. His Government hoped that that first decisive step would be followed by the conclusion of an agreement on the modalities for its implementation and by progress in other bilateral negotiations. It was essential to reach a generally acceptable settlement that restored all the rights of the Palestinian people, including its inalienable right to self-determination and the establishment of an independent State, and secured the withdrawal of Israel from all the Arab occupied territories, in accordance with Security Council resolutions 242 (1967), 338 (1973) and 425 (1978).

6. Concerning the so-called question of Western Sahara, he reminded the Commission that the process was proceeding normally with a view to the implementation of the settlement plan under the supervision of the Security Council. His Government had consistently cooperated with the Secretary-General and had facilitated his work by demonstrating a readiness to implement the provisions of Security Council resolution 809 (1993) in full. Any impediments that still remained could not be blamed upon Morocco, which the Secretary-General, in his reports to the Security Council, had regularly commended for its cooperation.

7. Ms. SPALDING (International Association of Educators for World Peace) said that, in 1947, Jammu and Kashmir had been partitioned into an Indian-occupied Kashmir, a Pakistani-occupied Kashmir and the northern territories. In Indian-occupied Kashmir, as confirmed in numerous reports by human rights organizations, Indian security forces were committing widespread human rights violations. India must be strongly condemned on that account but the acts of the fundamentalist militants sponsored by Pakistan must also be denounced. Violence undermined the genuine movement for national freedom and brought misery upon the people.

8. The people in Pakistani-occupied Kashmir were unable to exercise their right to self-determination either. Pakistan must allow the population in the part of Kashmir that it occupied to decide its own fate in a free and fair plebiscite held under United Nations supervision. The choice was not limited to adhesion to either Pakistan or India. There was also a third option: Kashmiri independence.

9. For 45 years, Pakistan had been tendentiously maintaining that it was prepared to resolve the Kashmir issue in accordance with the relevant Security Council resolutions. The Government of Pakistan could demonstrate the truth of that assertion by withdrawing its troops from Pakistani-occupied Kashmir and the northern territories, as required to do by Security Council resolution 47 (1948). Its refusal to do so clearly indicated that it sought to annex Kashmir. The local puppet government in Pakistani-occupied Kashmir, was oppressing the population, insisting that anyone wishing to run for office or take public employment pledge support for the accession of Kashmir to Pakistan.

10. The northern territories were governed like a colony by an administrator appointed by the Pakistan Government. The population of the area had no right to vote and no recourse to the courts.

11. The Kashmiris, seeking a non-violent solution, appealed to the international community to send observers to Kashmir to monitor the intolerable situation there and to bring pressure to bear on India and Pakistan alike to leave Kashmir to the Kashmiri people. Peace was only possible in a reunited, democratic, secular and sovereign nation.

12. Mr. PONRATAH (International Educational Development, Inc.), speaking on behalf of 17 non-governmental organizations*, said that the armed conflict in Sri Lanka was a source of grave concern. At the forty-ninth session of the Commission, 15 non-governmental organizations had declared in a joint statement that there was an "urgent need for the international community to recognize that the Tamil population of the north and the east of the island were a people with the right freely to choose their political status" and that such "recognition would prepare the ground for the resolution of a conflict which had taken such a heavy toll in human lives and suffering during the past several years". A year later, the economic blockade imposed on the Tamil homeland still continued, and Tamil civilians were still the target of indiscriminate bombings by the Sri Lankan armed forces.

13. The Government of Sri Lanka had declared its opposition to the merger of the north and the east of the island into a single administrative and political unit, and the President of Sri Lanka had stated on more than one occasion that there was no "ethnic problem", but only a "terrorist problem". The search for a peaceful and just settlement of the conflict was not helped by such blanket categorizations. The deep divisions in Sri Lanka could not be resolved by the use of force.

14. The Tamil population in the north and east of the island lived within well-defined boundaries and shared an ancient history, a vibrant culture and a living language. Although recognizing that two very different nations shared the island, the Sinhalese and the Tamils, the British had, in 1833, brought the two peoples together within the confines of a single territory. Since 1948, the Sinhalese had persistently denied the Tamils their basic rights, disenfranchising them, introducing discriminatory employment policies, depriving Tamil areas of resources, excluding eligible Tamil students from higher education and conducting genocidal pogroms in 1958, 1977 and 1983. Systematic colonization by Sinhalese was making the Tamils a minority in parts of their own homeland.

15. If the term "people" meant a social group that shared a common language and had acquired a sense of unity through its existence within a relatively well-defined territory and its struggle against alien domination, then the Tamil population in the north-east of the island was clearly such a one.

16. The Liberation Tigers of Tamil Eelam, the political and military force defending the rights of the Tamil people, had again called for a cease-fire and negotiations so as to realize, in a peaceful fashion, the right to self-determination of both the Tamil and the Sinhala peoples. The Government of Sri Lanka apparently sought to win a military victory over the Tamil people: the recent air attacks on civilian population centres gave cause for deep concern.

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* The list of non-governmental organizations concerned appears as an annex to this summary record.

17. The Secretary-General must use his good offices to help restore peace in Sri Lanka, the prerequisites being respect for the existence of the Tamil homeland in the north-east of the island and recognition of the right of the Tamil people freely to determine its political status. For its part, the Commission must place the Tamil people's legitimate right to self-determination on an equal footing with that of other peoples and must condemn the Sri Lankan Government for its attempts to suppress Tamil aspirations.

18. Ms. AULA (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the decolonization process begun almost 30 years previously in Western Sahara had not yet been completed. After the Spanish withdrawal in 1976, the military occupation of the territory by Morocco had triggered a war of independence.

19. United Nations forces had been deployed in the territory and a cease-fire declared, giving rise to the hope that the conflict would come to an end. Morocco had, however, begun violating the cease-fire systematically and had transferred many thousands of Moroccan subjects to the territory in the hope of winning the referendum by their participation. The United Nations had tolerated the flagrant Moroccan violations instead of taking measures to compel respect for the agreed peace plan. It was thus unlikely that a free and fair referendum could be held in the foreseeable future.

20. Any solution to the conflict that did not ensure freedom of expression and the participation of the population concerned would be of short duration, would fail to guarantee the stability of the region and would seriously damage the image of the United Nations.

21. As in previous years, her organization was still concerned at the ongoing violation of the right to self-determination of the Cuban people as a result of the economic, commercial and financial blockade imposed upon Cuba by the United States of America. Moreover, it appeared that the international community was actively or passively party to that violation of Cuba's basic collective right. The United Nations must take urgent action to put an end to that flagrant violation of the right to self-determination and interference by foreign Powers.

22. Concerning the situation in East Timor, she said that General Assembly resolution 31/53, and Commission resolution 1993/97 illustrated the link between human rights in general and the right to self-determination in particular. Unfortunately, the Indonesian Government continued to defy the will of the international community. Having invaded the territory of East Timor in 1975 and annexed it by military force, thus preventing the Timorese people from exercising its right to self-determination, Indonesia had perpetrated killings, arbitrary arrests, sham trials and massive population transfers.

23. The East Timorese were ready to engage in a constructive dialogue without preconditions under the auspices of the United Nations and to explore all proposals for a just, comprehensive and internationally acceptable solution to the conflict. The Commission should bear that in mind and introduce practical mechanisms to ensure that its resolutions were respected by all States, including Indonesia.

24. Ms. BATZIBAL-TUJAL (International Indian Treaty Council) said that self-determination was a clearly established right under contemporary international law that was basic to the enjoyment and exercise of all other human rights and fundamental freedoms. The claims of indigenous peoples were thus compatible with the principles of international law. They demanded recognition of and respect for all their human rights and fundamental freedoms, including the right to self-determination, which did not allow of any derogation. For them, self-determination was the framework within which to build the future: it meant the end of discrimination and war and the start of a new order of harmony, peace and tolerance among all races, cultures and religions.

25. The bitter period of colonial domination was virtually over, but certain vestiges remained and the situation in Western Sahara was clearly one of them. While the peace plan adopted by the Security Council in its resolution 690 (1991) was welcome, the Government of Morocco continued to block progress towards the planned referendum. The Commission should adopt a resolution urging the Moroccan authorities to respect the relevant United Nations resolutions and reaffirming the right of the people of Western Sahara to self-determination.

26. The situation of the Tamil people in Sri Lanka was extremely critical, and her organization asked the Commission to appeal urgently to the Sri Lankan Government to respect human rights and fundamental freedoms; lift the blockade on the north and east of the island, cease attacks on non-combatant civilians and institute an immediate cease-fire. It also urged the Commission to recommend that the Secretary-General should lend his good offices in support of a comprehensive negotiation process.

27. Ms. SARIS (France-Libertés: Fondation Danielle Mitterrand), speaking also on behalf of the International Federation of Human Rights, said that the two organizations had noted with satisfaction that Indonesia had agreed to grant greater access to East Timor for humanitarian agencies and human rights organizations, in conformity with Commission resolution 1993/97. They had consequently, in October 1993, informed the Indonesian authorities of their intention to visit East Timor to assess the human rights situation there. The authorities had replied, however, that the proposed mission could not take place for the time being, thus demonstrating their unwillingness to make any real changes.

28. The situation in East Timor continued to be a matter of concern. Acts of repression, including torture and the use of force, continued, in particular against prisoners serving lengthy sentences for non-violent protests. One such prisoner had had his visiting rights suspended because he had appealed to the International Commission of Jurists for assistance in securing a new trial. Individuals who had participated in a peaceful demonstration in

November 1991 were still being sought by the authorities and the bodies of the victims had not yet been returned to their families. In addition, the policy of colonizing East Timor with foreign immigrants was continuing.

29. The two organizations she represented thus urged that Commission resolution 1993/97 be implemented, particularly with respect to access to East Timor by non-governmental organizations, and that the people of East Timor be enabled to exercise their right to self-determination. In the meantime, the Commission should continue its monitoring of the situation in the territory.

30. Her organization was also deeply concerned at the situation in Western Sahara. The settlement plan adopted by Security Council resolution 690 (1991) was being jeopardized by Morocco's attempts to impede the installation of United Nations personnel, its violations of the cease-fire agreement, and its transfer of population not identified by United Nations personnel. The manifest bad faith of the Moroccan Government, its efforts to prevent the holding of the referendum, and its repeated violations of General Assembly resolution 1803 of 14 December 1962 concerning permanent sovereignty over natural resources, and of the provisions of the Third and Fourth Geneva Conventions, threatened the right of the people of Western Sahara to self-determination. She thus called on all the parties concerned to meet the conditions identified as preconditions to the referendum, as set forth in Security Council resolution 690 (1991).

31. Mr. VAN WALT (Pax Christi International) said that most United Nations discussions on the right of self-determination had been motivated by short-term political considerations of individual States or groups of States and had not examined the basic issues.

32. The right to self-determination was closely linked to the principle of democracy: people had the right to determine their own fate. While the principle of self-determination was not itself in dispute, the question at issue was to whom the right belonged and what it entailed under international law. The right to self-determination belonged to a people, a term that had both subjective and objective correlates. The UNESCO International Meeting of Experts concerned with further reflection on the concept of the rights of peoples had defined the term "people" as the subjective perception by a group of being a distinct people and the objective criteria of belonging to a distinct culture or having a distinct language, religion, geography, race or history.

33. As established in the Charter, International Covenants on Human Rights and elsewhere, the right to self-determination was the right of a people to determine freely, without external interference, its political status and its economic, social and cultural development. Self-determination thus involved the right of a people to decide on its own status, which could range from complete independence to full integration. Furthermore, no right was absolute. Thus, a reasonable balance must be found between competing rights and principles, including the principle of the territorial integrity of States.

34. In recent years, the debate on self-determination had focused largely on the effects of that right on international peace and stability and on the creation of new States or the restoration to States of their rightful independence. It had been argued with increasing frequency that the exercise of the right to self-determination resulted in conflict and instability.

35. Such views were untenable: it had been repeatedly demonstrated that it was the denial or suppression of a people's right to self-determination that gave rise to tension, conflict and, in the long term, instability. So-called "stability" based on the suppression of a weaker people by a more powerful one led sooner or later, to an explosive situation.

36. It was thus crucial to discuss claims to self-determination in an open and constructive manner, particularly with those directly affected. The United Nations should provide the framework for such discussions, perhaps by establishing a working group on the subject in which representatives of peoples claiming the right to self-determination would be invited to participate.

Statements in exercise of the right of reply

37. Mr. BROTODININGRAT (Indonesia) said that, in his statement to the Commission on 3 February 1994, the representative of Portugal had presented a distorted view of the situation in East Timor. Indonesia recognized the right of the people of East Timor to self-determination. It had consequently accepted in 1976 the decision of that people to join the nation of Indonesia, through a process that had been carried out in accordance with General Assembly resolutions 1514 (XV), 1541 (XV) and 2625 (XXV) and had been duly reported to the United Nations. Since then, the people of East Timor had twice participated in general elections for the national and provincial parliaments.

38. His Government was sincerely committed to and had always cooperated with the Secretary-General's efforts to find a just, comprehensive and internationally acceptable solution to the East Timor problem. Based on the understanding reached during the most recent talks in September 1993, it had taken the necessary steps to build confidence. It was eager to see what Portugal had done or intended to do to fulfil its commitment in that respect, so that both sides could move forward to a more fruitful dialogue.

39. Miss TOUNSI (Observer for Morocco) said that certain non-governmental organizations (NGOs) were waging a misleading campaign against her country and deliberately spreading lying allegations concerning the so-called "question" of Western Sahara. She had been particularly astonished at the statement of the representative of one particular NGO, which challenged the credibility of the Security Council, alleging that its decisions were based on the interests of its members. The NGOs in question focused on Security Council resolution 690 (1991), deliberately overlooking other Security Council resolutions, particularly resolution 725 (1991) which defined the criteria for identifying persons authorized to participate in the referendum.

40. While not entirely satisfied with those criteria, the validity of which had been reaffirmed by Security Council resolution 809 (1993), her Government had accepted them immediately, unlike the Frente Popular that had rejected them asserting that they unduly widened the electorate. Nevertheless, certain difficulties had emerged in the procedure, in particular the problem of identifying individuals as being of Saharan origin.

41. With regard to allegations of torture and imprisonment, such acts were practised systematically by those holding Saharans, against their will, in Frente Popular camps. It was high time to end the silence regarding the sufferings of those people and she congratulated certain NGOs that had cautiously begun to report such violations.

42. Mrs. SABHARWAL (India) said that she was surprised that the Commission permitted NGOs to distribute material containing character assassinations or personal attacks on the Heads of State of Member States. The text distributed by the World Muslim Congress contained a personal attack on the former Prime Minister of India, Mr. P. Nehru. Such a text was quite unacceptable. Participants in the Commission's session must respect the rules of procedure and of decorum at all times.

43. The CHAIRMAN said that he would look into the matter raised by the representative of India.

44. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that the representative of Indonesia had asserted that the people of East Timor had already exercised their right of self-determination. The presence of a sizeable occupation force and the suppression of the population's aspirations clearly demonstrated the falsity of that assertion. Moreover, in its resolution 31/53 of 1 December 1976, the General Assembly clearly stated that the self-determination it had called for in East Timor had not taken place.

45. His Government was firmly committed to the Secretary-General's efforts to find a solution to the situation in East Timor. The Government of Indonesia should respond to the Secretary-General's appeals by improving the conditions in East Timor and he thus welcomed its stated intention to cooperate with the Secretary-General.

46. However, that Government's respect for the principles of the United Nations could best be shown by complying with the provisions of Commission resolution 1993/97 on the situation in East Timor.

47. Mr. BROTODININGRAT (Indonesia) said that he welcomed Portugal's commitment to support the efforts of the Secretary-General with regard to the situation in East Timor. Instead of harking back to an 18-year old resolution, which could only be counter-productive, Portugal should look to the future, as his country was doing.

48. The CHAIRMAN said that the Commission had concluded its discussion on items 4 and 9 of the provisional agenda.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (item 5 of the provisional agenda) (E/CN.4/1994/15; A/48/525)

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME IN SOUTH AFRICA (item 6 of the provisional agenda) (E/CN.4/1994/16; E/CN.4/Sub.2/1993/11/Add.1)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (item 14 of the provisional agenda) (E/CN.4/1994/63)

49. Mr. BALANDA (Chairman-Rapporteur of the Ad Hoc Working Group of Experts on southern Africa), introducing the Working Group's interim report (E/CN.4/1994/15), recalled that the Commission had, by its resolution 1993/9, renewed its request to the Government of South Africa to allow the Working Group to visit South Africa to ascertain the situation of human rights there. As no such invitation had been received, the Working Group had once again undertaken a mission of inquiry to the front-line countries in order to obtain first-hand information for the preparation of its preliminary report to the General Assembly (A/48/525) and its interim report to the Commission.

50. The Working Group had noted with satisfaction that multiparty negotiations had been carried out and important agreements reached between the participants, including agreements on the constitution to govern the country during the transitional period, on the establishment of an Independent Electoral Commission and on the date for elections on the basis of universal suffrage. Although the Freedom Alliance had not taken part in those negotiations, negotiations had been carried out on a bilateral basis between the ANC and the Government with a view to including the members of that party and obtaining their participation in the forthcoming elections.

51. The Working Group had also noted with concern that the Parliament had not yet abolished section 29 of the Internal Security Act, although a decision to that effect had been taken in the multiparty negotiations. It was to be hoped that that would be done at the next parliamentary session. Various witnesses had testified that the situation concerning deaths resulting from violence was still a matter of deep concern. The violence was allegedly due to the participation or instigation of the KwaZulu Police (KZP), the South African Defence Forces (SADF) and the Internal Stability Unit (ISD). The situation in East Rand was particularly disturbing in terms of the right to life, which continued to be flouted. The murder of Chris Hani by a group of whites belonging to extreme right political groups was one illustration thereof.

52. According to information received, 2,009 cases of deaths by violence had been recorded in 1993, an increase over the previous year. The violence in Natal was largely due to rivalries between militant members of IFP and of the ANC. The explosion that had taken place in a bus in Durban had reportedly killed 126 children and 136 women. The involvement of the security forces in violence of which some of their members had also been victims had been noted. There had been 142 attacks on members of the security forces in 1993, in the course of incidents of a political nature. A total of 59 members of the

security forces had been killed, 31 of whom were members of the South African Police (SAP), 3 belonged to the ISD, 25 to the KZP, and 2 to the SADF.

53. The Working Group had also been told that 49 civilians had been killed and 78 others injured during attacks allegedly carried out by members of the security forces and that the KZP had been accused of killing 21 civilians and injuring 26 persons. Some misdeeds had allegedly been carried out jointly by the SAP, SADF, ISD and KZP.

54. To ensure the universal nature of the forthcoming elections, the South African Government should unconditionally abolish the "homelands" and "Bantustans" and ensure that the population of those territories could participate freely in the electoral campaign and the election itself.

55. The Working Group stressed the importance of all South African parties participating in the forthcoming elections, including those that had not participated in the multiparty negotiations. The international community could also play a substantial role both before and after the elections that would determine the future of South Africa. It was important for the success of the elections that they should take place in a calm atmosphere. Furthermore, there was clearly a need to restrain the security forces, which appeared to be primarily responsible for the violence, and to ensure that the country had a responsible administration.

56. The South African authorities must discharge their responsibilities effectively in terms of the maintenance of public order, prosecute those responsible for violence, and ensure the protection of all citizens whatever the colour of their skins or their political beliefs. To that end, they should, with the assistance of the international community, establish promptly a truly independent judiciary and a police force enjoying the support of the majority of South Africans.

57. The legacy of the apartheid system could not be removed by a stroke of a pen and it was therefore necessary to help the new South Africa to establish its economy on a solid basis and to strengthen the structures of its young democratic institutions from the standpoint of human rights.

58. In conclusion, the Working Group wished to stress the decisive and positive role played by the current South African Government in the search for a permanent dialogue between all those involved, especially with a view to the participation of all political groups in the forthcoming elections.

59. Mrs. ATTAH (Special Rapporteur of the Sub-Commission), introducing her report on monitoring the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11), recalled that, when she had submitted her preliminary report to the Sub-Commission in August 1993, she had not yet had the opportunity of visiting South Africa to assess the situation on the spot. She had subsequently been invited by the Government of South Africa and the report of her field mission was contained in an addendum to the preliminary report (E/CN.4/Sub.2/1993/11/Add.1).

60. She wished to thank the Government and people of South Africa and all the various organizations and individuals who had given her invaluable information and assistance there.

61. Chapter I of her preliminary report examined the question of equal participation of South Africans in the civil and political life of their country. Having given an account of the first steps in that direction from the announcement by President De Klerk in February 1990 of the lifting of the ban on a number of organizations to the release of Mr. Nelson Mandela and the various measures to abolish apartheid, it referred to the formation of CODESA (Convention for a Democratic South Africa), and its replacement in April 1993 by the Multiparty Planning Conference of 26 parties which had continued working until December 1993, when the Transitional Executive Council (TEC) was established.

62. Chapter II of the report dealt with the violence syndrome. Violence had remained the one serious obstacle to progress in the political transformation of South Africa. Incidents of political violence were fewer, in fact, than those of economic or criminally motivated violence, but their high profile in the news media demanded that urgent attention should be paid to reducing them. The National Peace Committee had been established to contain violence and the Goldstone Commission to investigate cases of violence. She had attempted to analyse the reasons why various groups and the security forces violated people's right to life, security and property.

63. In South Africa, the denial of the enjoyment of political rights went hand-in-hand with the denial of economic and social rights. She had linked those two elements in chapter III of her report, and stressed that it would take decades to remedy centuries of inhuman treatment of the majority population.

64. Chapter IV dealt with impediments to the transition to a democratic South Africa and the enjoyment of human rights. In chapter V, the international community was urged to continue to support the positive changes taking place in South Africa and to restore democracy. The last chapter (chapter VI) contained her conclusions and recommendations.

65. Following the decision of the Government of South Africa to welcome her, she had visited the country from 24 November to 2 December 1993 accompanied by two officers of the Centre for Human Rights. She had had discussions with senior Government officials, representatives of the major political parties, the South African Council of Churches, the Conference of South African Catholic Bishops, and several non-governmental organizations and institutes concerned with questions of human rights and democracy.

66. The introduction to the report on the field mission explained briefly the reasons for the visit. The second part (chapter I) explained the various political decisions that should lead to the enjoyment of civil rights, such as the agreement on the formation, composition and supervisory functions of the multiracial Transitional Executive Council (TEC). Under the interim constitution for the transition to democracy in Africa, the country was to be governed for five years by a Government of national unity. The draft interim constitution also included a bill of rights, the provisions of which should

guarantee the equality and rights of all people in South Africa. However, the drafting of the constitution had been bogged down by serious disagreements over the question of self-determination and "regionalism".

67. She had noted the satisfaction of South Africans with respect to the new positive developments for the enjoyment of human rights. The necessity of abiding by the 27 April election date and the participation in the elections by all political parties had been emphasized by all, except some members of the Freedom Alliance, who had said however that they would participate if certain conditions were met. In that connection, she paid special tribute to the Independent Forum for Electoral Education, made up of churches and non-governmental organizations, for its considerable efforts in voter education.

68. Chapter II of the report was devoted to violence and the increasing danger posed to citizens by assault rifles and other dangerous weapons. Virtually everyone she had met admitted that, although violence was not widespread, the danger it posed could cause a climate of fear that would hamper a peaceful transition to democracy. Everyone had stressed the importance of developing a culture of tolerance and the need for economic and social development to accompany political development.

69. The Network of Independent Monitors of Violence, an NGO grouping, and some governmental institutions had done valuable work which had reduced acts of violence in certain regions, but the same could unfortunately not be said of the South African Police which seemed to have lost all credibility as the protector of life and property. The Government must deal urgently with that situation, especially with respect to the Internal Stability Unit (ISD) which the townships regarded as their sworn enemy. The next South African Government would inherit a bitter legacy if all groups did not make a special effort to prevent violence.

70. Chapter III examined the role which the international community was playing and could play to assist South Africa in its transition to a peaceful democratic country. The people to whom she had spoken had stressed the need for United Nations participation to ensure the legitimacy of the elections and they would be heartened to hear that the Security Council had approved the participation of some 1,700 United Nations observers and that there would be some 5,000 observers in all.

71. The conclusions and recommendations, chapter IV of the report, were based on the need for all parties to participate peacefully in the forthcoming elections and to help the Government to establish a humane and effective security apparatus.

72. Mr. MEGALOKONOMOS (Observer for Greece), speaking on behalf of the European Union, said that the events which had taken place in South Africa in 1993 could be regarded as the culmination of the first phase of a process leading to non-racial democracy in that country. In that regard, mention should be made of the agreement on a date for the holding of democratic elections, the agreement on a transitional constitution and the establishment of the Transitional Executive Council (TEC).

73. While welcoming those positive developments, the European Union recognized that the process of South Africa's transition to a full, multiparty, non-racial democracy was not free from difficulty and that strenuous efforts by all South African political forces and the Government were required. The Union urged all parties and people in South Africa to support peaceful negotiations aimed at establishing a non-racial, united and democratic State.

74. The European Union had consistently condemned recourse to acts of violence from any quarter in South Africa. In that context, it had taken due note of the reports of the Goldstone Commission. It was vital that all parties remain calm and recognize that political violence presented the greatest threat to progress in South Africa. The elements wishing to prevent a peaceful transition must not be allowed to succeed.

75. The European Community Observer Mission in South Africa (ECOMSA) was an ongoing programme to assist the victims of apartheid. The Union had recently decided to implement a coordinated programme of electoral assistance and monitoring and to help create an appropriate framework for the consolidation of basic economic and social structures in South Africa. Within that framework, the Union had opened an electoral unit in South Africa and would send more than 300 observers to monitor the elections.

76. On 29 January 1994, the European Union had also initiated a dialogue with the Transitional Executive Council, focusing on its short- and long-term relationships with South Africa, and on the rule of law, good governance and respect for human rights in the new South Africa. In that connection, the Union welcomed the General Assembly resolution on the lifting of economic sanctions against South Africa.

77. Mr. KESSEL (Canada) said that Canada had played a constructive role in promoting change in South Africa, which would culminate in the country's first multiracial elections. His delegation reaffirmed its support for that process. In conjunction with the United Nations and other countries and organizations, his Government was providing electoral and violence-control expertise, monitors and observers. It was also assisting in voter education. Canada had presided over the Commonwealth Committee of Foreign Ministers on Southern Africa, when it had decided to lift trade, investment and financial sanctions in September 1993, in acknowledgement of the progress made towards ending apartheid, and it was seeking to re-establish strong economic ties with the new South Africa.

78. His delegation was alarmed at the level of politically motivated violence which persisted in South Africa, despite the presence of international observers working within the framework of the National Peace Accord. It once again called on all parties in South Africa to do their utmost to bring an end to the killing. While international monitors and observers could play a valuable role, the real solution lay in the hands of South African political leaders on all sides.

79. His Government had recently announced a $2.5 million package of assistance to the electoral process. It had urged the Secretary-General of the United Nations to provide a substantial number of monitors to ensure a

free and fair election and at the request of the South African Independent Electoral Commission, it would contribute its own high-level electoral expertise. It was providing substantial funds to NGOs to work with South African partners on voter education and would also be sending a bilateral electoral observer delegation. Canada had supported the Commonwealth initiative on violence and contributed to community-based policing programmes. It was considering how best to support the Commonwealth in its effort to train the new national peace-keeping force and would provide an expert on violence control to the Goldstone Commission and the Independent Electoral Commission.

80. The legacy of apartheid's cultural and discriminatory policies would take years to overcome. In that connection, Canada had provided expertise and models for the formulation of a workable, justiciable bill of rights for South Africa. It had also taken the lead in condemning human rights abuses in South African society. In conclusion, the international community, while maintaining its focus on South Africa, should not lose sight of serious human rights concerns elsewhere in southern Africa.

81. Mr. VERGNE SABOIA (Brazil) expressed his satisfaction at the dismantling of apartheid in South Africa and stressed that United Nations decisions, including the recommendations of the Commission, had paved the way for the changes taking place. His delegation praised the South African Parliament for ratifying by an absolute majority the draft interim constitution that officially ended nearly three centuries of white rule. The South African Government had, however, the duty to prevent disruptions of any kind in the democratic process, which was to culminate in the elections of 27 April. His delegation welcomed the Secretary-General's decision to respond promptly to the South African transitional authorities' request for electoral assistance. The presence of international observers would be crucial to the successful outcome of the elections.

82. The elections, however, would not mark the end of a process, but rather the first step in the building of a democratic, non-racial South Africa. The world community and the Commission must therefore continue to monitor events in that country very closely. Valuable guidelines for the democratization of South Africa were contained in the recommendations of the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1994/15) and in the report on her mission to South Africa by the Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1993/11/Add.1). His delegation was extremely concerned about actions aimed at derailing the democratization process. It was the responsibility of the South African authorities to guarantee law and order in a situation of racial, ethnic and regional strife.

83. It was to be hoped that the changes in South Africa would have positive political and economic repercussions throughout the African continent and would contribute, in particular, to a settlement of the conflict in Angola. The international community must redouble its efforts to that end and must be wary of radical groups unhappy about the end of apartheid which might be tempted to interfere in the Angolan conflict.

84. The Third Decade to Combat Racism and Racial Discrimination provided a general framework for the elimination of all forms of racism and racial discrimination, xenophobia and related intolerance, which the World Conference on Human Rights had deemed a priority task for the international community. The Vienna Declaration and Programme of Action called on Governments to take educational and legal measures to that end. He noted, however, the alarming resurgence of doctrines of racial superiority and of xenophobic, extremist and anti-Semitic trends. In a number of developed countries, groups such as immigrants, refugees and ethnic minorities were increasingly vulnerable. His delegation urged all Governments to take immediate action to deal with that problem. In that connection, it welcomed the actions taken by the European Parliament, particularly its resolution on racism and xenophobia.

85. Brazil had been a sponsor of Commission resolution 1993/11 establishing a special rapporteur on contemporary forms of racism, racial intolerance, xenophobia and related intolerance. It hoped that all Governments and NGOs would help the Special Rapporteur to discharge his mandate.

86. Mr. BOECK (Austria) said that his Government had implemented General Assembly resolution 48/1 calling for the lifting of economic sanctions against South Africa. Moreover, it planned to provide continued economic assistance to the new South Africa in order to facilitate its transition to democracy.

87. The international community must focus on assistance to carry out free and fair elections. To that end, six Austrian experts would participate in the United Nations Observer Mission in South Africa (UNOMSA), familiarizing previously disenfranchised citizens with democratic procedures, ensuring all eligible voters access to the polls and monitoring the elections, particularly in critical areas where neutral intermediaries could help to build trust. Qualified Austrian observers would also be among those deployed in South Africa in the final two weeks of April.

88. His delegation urged all members of governmental and non-governmental organizations, humanitarian and liberation movements, political parties and the media to cooperate in ensuring that the elections ran smoothly. The coming months would determine whether South Africa would embark on the course of peace and democracy or succumb to the political violence and intimidation that had endangered the transition process. In the follow-up to the elections, long-term assistance programmes to strengthen democratic institutions and participatory processes would be crucial.

89. His delegation had carefully studied the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1994/15). It would be appropriate for the Working Group to visit South Africa to help consolidate peace and democracy and maintain the fragile trust established between the South African ethnic groups. The tasks that lay ahead included training and organizing an impartial judiciary and reliable police force and establishing training facilities and a compulsory education system to deal with the alarmingly high rates of unemployment and illiteracy among the black population.

90. Mr. MIYENI (Pan Africanist Congress of Azania (PAC)) said that, although the international community was tempering its criticism of South Africa during the transition, human rights violations there were increasing. For instance, the monthly average of detentions without trial in 1993 had been 60.6, nearly twice the figure for 1992. The year had also witnessed 39 deaths in prison, a significant increase in death sentences - about 40 per cent over 1992, and 146 political trials.

91. In May 1993, the South African police had rounded up 73 leaders of the Pan Africanist Congress of Azania, including members of its negotiating team, and had confiscated office property. In August 1993, police had raided the homes of PAC members in Soweto and arrested 22 persons. The total number of detentions in 1993 was 728, representing a 61 per cent increase over the previous year.

92. In addition to those acts of repression, there had been a general rise in political violence in 1993, mainly against Africans. PAC believed that there was a third force involved. In 1993, there had been over 5,000 incidents of political violence, claiming over 4,000 lives. The number of massacres had doubled in one year. In one of the 20 massacres that had occurred, the South African Defence Forces had raided the Transkei Homeland and shot five adolescents in their sleep. In view of such abuses, PAC supported the bill of rights as contemplated in the declaration of the OAU Ad Hoc Committee on Southern Africa on the question of South Africa and the resolutions adopted by the Ad Hoc Committee of the Whole of the sixteenth special session of the General Assembly of the United Nations.

93. There were two types of first-generation human rights: "liberal" or "individual" rights upon which the State could not infringe and "participatory" human rights, including the right to vote, the right to stand for public office and the right to join a political party. Political parties should be prohibited from advocating racist policies, along the lines of the German Constitution drafted following the Nazi experience. Although the choice of an official language or languages might present certain difficulties, it seemed that there would be consensus on participatory or political human rights, including the rights of association, freedom of religion, cultural rights and other first-generation human rights, such as freedom of speech, freedom of assembly, access to information and the right to life.

94. With regard to the right to life, the State should abolish the death penalty and replace it by more humane forms of punishment, such as life imprisonment. It also seemed that procedural human rights, including due process and the right to legal representation, would pose no problem. Closely related to procedural rights was the right to judicial review of actions by the State administration and the application of the rules of natural justice in cases where the administration's actions were injurious to citizens.

95. Two possible sources of controversy, however, were the right to own property and the so-called Equal Treatment Clause. The bill of rights gave undue protection to private property and privately-owned means of production, such as farmland and mines, from expropriation under a property clause and through certain tax exemptions. The property clause would, however, be a

major impediment to land redistribution. The Equal Treatment Clause outlawing discrimination on the basis of race, gender or persuasion conflicted with the idea of affirmative action. The bill of rights should thus contain stronger provisions on guaranteeing opportunities to those who had been deprived under the apartheid system.

96. Second-generation human rights included social and economic rights, such as the right to work, the right to education, the right to health and the right to shelter. Ordinary workers' rights, such as the right to form and join trade unions, bargain collectively and the right to strike should not present problems, because they would not place a great demand on the national budget. However, the regime's proposals ignored other second-generation human rights which required the State to provide for the citizens' welfare (work, education, health care and housing) and would involve greater expenditure.

97. The fundamental question was whether those second-generation human rights should be enforced through the political process or, like the first-generation civil rights, through the judiciary. PAC believed that they should be enforced by a constitutional court empowered to prescribe the necessary budgetary appropriations to the legislature.

98. The State also had a duty to enforce third-generation human rights such as the right to development, the rights of the child, gender rights and the rights of disabled persons. Special emphasis should be placed on environmental rights.

The meeting rose at 1.08 p.m.

Annex

List of non-governmental organizations sponsoring the statement by the International Educational Development Inc., under agenda item 9

International Association of Educators for World Peace

International Indian Treaty Council

Indian Council of South America

Commission of Human Rights of El Salvador

Commission for the Defence of Human Rights in Central America

World Council of Churches

International Movement against All Forms of Discrimination and Racism

Association of Christians for the Abolition of Torture - Togo

International Federation of Rural Adult Catholic Movements

International Council of Women

American Association of Jurists

Centre Europe - Tiers Monde

Service, Justice and Peace in Latin America

Pax Romana

International League for the Rights and Liberation of Peoples

World Christian Life Community